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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,056	10/11/2004	Ralf Prenzel	112740-1015	6152
29177 7590 10/03/2007 BELL, BOYD & LLOYD, LLP P.O. BOX 1135 CHICAGO, IL 60690			EXAMINER SAFAIPOUR, BOBBAK	
			ART UNIT 2618	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/511,056

Applicant(s)

PRENZEL ET AL.

Examiner

Bobbak Safaipoor

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 16-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This Action is in response to Applicant's response filed on 7/10/2007. Claims 16-30 are still pending in the present application. **This action is made FINAL.**

#### ***Response to Arguments***

Applicant's arguments been fully considered but they are not persuasive.

In the present application, Applicant essentially argues that the cited art fails to teach or suggest the features of "providing, upon non-deliverability of the data to the second communications unit, an item of information concerning the non-deliverability of the transmitted data in the transmission status message; and wherein the non-deliverability of the sent applies if one of the correct receipt of the data sent and a recipient notification message concerning the data to be transmitted to the second communications unit is not acknowledged by the second communications unit via a respectively associated confirmation message"

Examiner respectfully disagrees. The first limitation of claim 16 states "transmitting at least one transmission status message assigned to the data to the first communications unit." As indicated in the previous Office Action (3/30/07), this limitation is taught in the WAP protocol. Section 6.1.2 *Send Confirmation* of the WAP protocol discloses that the MMS Proxy-Relay sends a response message (read as transmission status message) back to the MS (read as first communications unit) indicating the status of the operation. Furthermore, taking a closer look at section 6.5 *Delivery Reporting* of the WAP Protocol, it is clearly shown that a MMS Delivery Report (read as transmission status message) is sent to the originating MS (read as first communication unit). The recited claim language is given the broadest reasonable interpretation.

As a result, the argued features are written such that they read upon the cited references; therefore, the previous rejection still applies.

The second limitation of claim 16 states “providing, upon non-deliverability of the data to the second communications unit, an item of information concerning the non-deliverability of the transmitted data in the transmission status message.” As indicated in the previous Office Action (3/30/07), this limitation is taught by Ratschunas. Figure 2 of Ratschunas teaches that if the receiving condition is not met (figure 2, step S6), a message is sent to the originator that the MS is not reachable (figure 2, step S7; read as item of information concerning the non-deliverability of the transmitted data). This limitation broadly teaches that when the data is not delivered to the second communications unit, the transmission status message indicates that the data was not delivered to the second communications unit. As shown above, this is described in the recited art. The recited claim language is given the broadest reasonable interpretation. As a result, the argued features are written such that they read upon the cited references; therefore, the previous rejection still applies.

Third limitation of claim 16 states “wherein the non-deliverability of the data sent applies if one of the correct receipt of the data sent and a recipient notification message concerning the data to be transmitted to the second communications unit is not acknowledged by the second communications unit via a respectively associated confirmation message.” As indicated in the previous Office Action (3/30/07), this limitation is taught by Ratschunas. This limitation broadly teaches that the non-deliverability of the data sent applies, for example, if the correct receipt of the data sent is not acknowledged by the second communications unit. Ratschunas teaches that the MMSC accesses the receiving condition information of the multimedia message (step S5)

and decides whether the receiving condition is met. In case the receiving condition is not met (NO in step S6), a message indicates that the MS is inactive or busy (read as correct receipt of the data sent is not acknowledged by the second communications unit). This message is sent to the originator that the MS is not reachable (figure 2, steps S6-S7; page 12, line 31 to page 13, line 4). The recited claim language is given the broadest reasonable interpretation. As a result, the argued features are written such that they read upon the cited references; therefore, the previous rejection still applies.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 16-25, 27-30** are rejected under 35 U.S.C. 103(a) as being unpatentable over in **Wireless Application Protocol, MMS Encapsulation Protocol, Version 05-Jan-2002 (hereinafter WAP)** in view of **Ratschunas et al (WO 01/28171 A1)**.

Consider **claim 16**, WAP discloses a method for transmitting data having multimedia contents from a first communications unit to a second communications unit in a telecommunications network (4. Introduction, 6.1 Sending of Multimedia Message to 6.7 Error Considerations, pages 5, 9, and 11-20), the method comprising: and transmitting at least one transmission status message (read as sending of multimedia messages) assigned to the data to the first communications (read as sending client) unit (6.1 Sending of Multimedia Message, page 11).

WAP fails to disclose providing, upon non-deliverability of the data to the second communications unit, an item of information concerning the non-deliverability of the transmitted data in the transmission status message; wherein the non-deliverability of the data sent applies if one of the correct receipt of the data sent and a recipient notification message concerning the

data to be transmitted to the second communications unit is not acknowledged by the second communications unit via a respectively associated confirmation message.

In related art, Ratschunas et al disclose providing, upon non-deliverability of the data to the second communications unit, an item of information concerning the non-deliverability of the transmitted data in the transmission status message (read as send message to originator that MS is not reachable (figures 1-3, page 12 line 21 to page 14 line 9); wherein the non-deliverability of the data sent applies if one of the correct receipt of the data sent and a recipient notification message concerning the data to be transmitted to the second communications unit is not acknowledged (read as receiving condition not met) by the second communications unit via a respectively associated confirmation message (figures 1-3, page 12 line 21 to page to page 14 line 9).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the item of information concerning the non-deliverability of the transmitted data of Ratschunas et al into the method of transmitting data of WAP so that messages are only transmitted to a terminal device if certain conditions met.

Consider **claim 17**, and **as applied to claim 16 above**, WAP, as modified by Ratschunas et al, discloses an item of information concerning the non-deliverability of the data sent is provided in the transmission status message if the data cannot be delivered to the second communications unit within the definable period of validity (Ratschunas et al: figures 1-3, page 12 line 21 to page to page 14 line 9; WAP: 6.1.1. Send request, page 12 of 39).

Consider **claim 18**, and **as applied to claim 16 above**, WAP, as modified by Ratschunas et al, discloses the claimed invention wherein the non-deliverability of the data sent applies if the correct receipt of the data sent and of a recipient notification message concerning the data to be transmitted to the second communications unit is not acknowledge by the second communications unit via a respectively associated confirmation message. (Ratschunas et al: figures 1-3, page 12 line 21 to page to page 14 line 9)

Consider **claim 19**, and **as applied to claim 16 above**, WAP, as modified by Ratschunas et al, discloses the claimed invention wherein the telecommunications network includes a switching arrangement via which the data is transmitted from the first communications unit to the second communications unit, and wherein the switching arrangement establishes the non-deliverability of the data sent and sends the transmission status message to the first communications unit. (Ratschunas et al: figures 1-3, page 12 line 21 to page to page 14 line 9)

Consider **claim 20**, and **as applied to claim 16 above**, WAP, as modified by Ratschunas et al, discloses a method wherein the data is transmitted via a Multimedia Messaging Service by using a Wireless Application Protocol (WAP: 1. Scope, page 5 of 39).

Consider **claim 21**, and **as applied to claim 20 above**, WAP, as modified by Ratschunas et al, discloses a method wherein the recipient notification message includes a Multimedia Message Service message in a category "X-Mms-Message-Type: m-notification-ind." (WAP: 7.2.14. Message-Type field, page 25 of 39).

Consider **claim 22**, and as **applied to claim 20 above**, WAP, as modified by Ratschunas et al, discloses a method wherein the data is transmitted to the recipient via at least one Multimedia Messaging Service message in a category “X-Mms-Message-Type: m-retrieve-conf.” (WAP: 7.2.14. Message-Type field, page 25 of 39).

Consider **claim 23**, and as **applied to claim 20 above**, WAP, as modified by Ratschunas et al, discloses a method wherein the transmission status message includes a Multimedia Messaging Service message in a category “X-Mms-Message-Type: m-delivery-ind.” (WAP: 6.5. Delivery Reporting, page 19 of 39).

Consider **claim 24**, and as **applied to claim 23 above**, WAP, as modified by Ratschunas et al, discloses a method wherein the item of information concerning the non-deliverability of the data set is represented by the value “<Octet 133>” in the data field “X-Mms-Status” of the transmission status message (WAP: 7.2.14. Message-Type field, page 25 of 39; 7.2.20. Response-Status field, page 26 of 39).

Consider **claim 25**, and as **applied to claim 16 above**, WAP, as modified by Ratschunas et al, discloses a mobile station/terminal (read as wherein at least one of the first communications unit and the second communications unit is a mobile communication module) (WAP: 4. Introduction, page 9 of 39).

Consider **claim 27**, WAP discloses a switching arrangement for transmitting data in a telecommunications network from a first communications unit to a second communications unit (4. Introduction, 6.1 Sending of Multimedia Message to 6.7 Error Considerations, pages 5, 9, and 11-20), comprising an apparatus for producing a transmission status message (read as sending of multimedia messages) which is assigned to the data to be transmitted to the second communications unit (6.1 Sending of Multimedia Message, page 11).

WAP fails to disclose the apparatus providing an item of information concerning non-deliverability of the data to be transmitted in the transmission status message if the data cannot be delivered to the second communications unit and, with regard to the apparatus for producing the transmission status message, non-deliverability of the data sent applies if one of the correct receipt of the data sent and a recipient notification message concerning the data to be transmitted to the second communications unit is not acknowledged by the second communication unit via a respectively associated confirmation message.

In related art, Ratschunas et al disclose the apparatus providing an item of information concerning non-deliverability of the data to be transmitted in the transmission status message if the data cannot be delivered to the second communications unit (read as send message to originator that MS is not reachable (figures 1-3, page 12 line 21 to page 14 line 9); and, with regard to the apparatus for producing the transmission status message, non-deliverability of the data sent applies if one of the correct receipt of the data sent and a recipient notification message concerning the data to be transmitted to the second communications unit is not acknowledged (read as receiving condition not met) by the second communication unit via a respectively associated confirmation message (figures 1-3, page 12 line 21 to page to page 14 line 9).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the item of information concerning the non-deliverability of the transmitted data of Ratschunas et al into the method of transmitting data of WAP so that messages are only transmitted to a terminal device if certain conditions met.

Consider **claim 28**, and **as applied to claim 27 above**, WAP, as modified by Ratschunas et al, discloses, the claimed invention wherein the apparatus for producing the transmission status message provides the item of information concerning the non-deliverability of the data to be transmitted in the transmission status message if the data cannot be delivered to the second communications unit within a definable period of validity. (Ratschunas et al: figures 1-3, page 12 line 21 to page 14 line 9; WAP: 4. Introduction, page 9 of 39; 6.1.1. Send request, page 12 of 39).

Consider **claim 29**, and **as applied to claim 27 above**, WAP, as modified by Ratschunas et al, discloses, the claimed invention wherein the non-deliverability of the data sent applies if the correct receipt of the data sent and of a recipient notification message concerning the data to be transmitted to the second communications unit is not acknowledged by the second communications unit via a respectively associated confirmation message. (Ratschunas et al: figures 1-3, page 12 line 21 to page 14 line 9; WAP: 2.6. Delivery-Report field, page 23 of 39; 7.2.6. Delivery-Report field, page 23 of 39).

Consider **claim 30**, and as applied to **claim 27 above**, WAP, as modified by Ratschunas et al, discloses the switching arrangement further comprising an apparatus for transmitted the transmission status message to the first communications unit. (Ratschunas et al: figures 1-3, page 12 line 21 to page to page 14 line 9; WAP: 4. Introduction, page 9 of 39).

**Claims 26** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Wireless Application Protocol, MMS Encapsulation Protocol, Version 05-Jan-2002 (hereinafter WAP)** in view of **Ratschunas et al (WO 01/28171 A1)** and in further view of **Aho (US Patent Application Publication # 2001/0010685 A1)**.

Consider **claim 26**, and as applied to **claim 16 above**, WAP clearly shows the claimed invention except wherein the telecommunications network is a wireless (mobile) (1. Scope, page 5 of 39) communications network and at least the terminal and the MMS Proxy-Relay (read as one of the first communications unit and second communications unit) (4. Introduction, page 9 of 39) operate as defined by a standard that is at least one of GSM, GPRS, EDGE, and UMTS.

In the same field of endeavor, Aho clearly shows and discloses, as known in the art, WAP technology that operates in a GPRS network (paragraphs 2 and 4).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the well-known teachings of Aho into the system of WAP to support the GPRS network in order to support the wireless communication network.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

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Any inquiry concerning this communication or earlier communications from the

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Examiner should be directed to Bobbak Safaipour whose telephone number is (571) 270-1092.

The Examiner can normally be reached on Monday-Friday from 9:00am to 5:00pm.


If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lana Le can be reached on (571) 272-7891. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

  
Bobbak Safaipour  
B.S./bs

September 30, 2007

  
9-30-07  
LANA LE  
PRIMARY EXAMINER